

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-220399

DATE: December 5, 1985

MATTER OF: Metro Medical Downtown

DIGEST:

Where as result of Commerce Business Daily synopsis agency distributed copies of solicitation to 24 firms of which four have submitted offers, thus obtaining full and open competition, GAO will not sustain protest of firm which did not compete because apparently through oversight it was not added to solicitation mailing list which agency did not use in any event. GAO recommends, however, that in future agency take measures to insure that interested firms are added to solicitation mailing lists and that such lists are used.

Metro Medical Downtown protests the failure of the Federal Bureau of Investigation, Department of Justice, to provide it with a copy of solicitation No. RFP 3059 issued August 13, 1985, for the procurement of medical services--administering pre-employment and fitness for duty physical examinations for personnel of the FBI and the Drug Enforcement Administration (DEA) on location in the New York City and Philadelphia Field Offices of the FBI and DEA and their respective headquarters facilities.

This decision is issued pursuant to the express option provision in 4 C.F.R. § 21.8 (1985) and is rendered within 45 calendar days of the date the protest was filed.

We deny the protest.

The protester advises that in April 1985 it learned that the FBI was a purchaser of medical examination services in the New York City area. Metro Medical states that it contacted the FBI procurement office in Washington, D.C. to insure that it would receive copies of solicitations for such services and that in accordance with the verbal advice it received it requested, by letter dated April 22, 1985, that it be added to the FBI's appropriate solicitation mailing list. However, Metro Medical did not receive a copy

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of RFP No. 3059, issued some 4 months later. Not until October 21, Metro states, did it learn that the FBI had obtained offers under that solicitation for medical services and that the "bid period" had closed on September 26. Metro Medical requests that the solicitation be reopened so that it may submit its offer for consideration.

The agency advises that Metro Medical was not placed on the solicitation mailing list since that firm had not filed the required Standard Form (SF) 129--Solicitation Mailing List Application. The FBI advises that it is normal practice for it to mail a SF-129 to interested potential offerors so that they can submit the completed form and be placed on the mailing list. The agency states that if it failed to follow this standard procedure with regard to Metro Medical's expression of interest, such failure was unintentional and the result of an oversight. In any event, the agency states, its failure to place Metro Medical on the solicitation mailing list was not material to Metro Medical's failure to submit a timely offer under the solicitation since the agency did not use the solicitation mailing list for the solicitation under protest. The solicitation was synopsisized in the June 7, 1985, edition of the Commerce Business Daily (CBD), as a result of which the FBI received a total of 24 requests for the solicitation. The agency advises that six concerns attended an August 27 preproposal conference and that four proposals were submitted by the September 26 deadline for receipt of proposals.

Given the specificity of Metro Medical's letter requesting that it be added to the solicitation mailing list, we think it would have been appropriate for the FBI to have done so even though the application was not made on the SF 129 prescribed for this purpose. It appears, however, that even if Metro Medical's application had been by way of an SF 129, it would not have been sent a copy of the solicitation because, for reasons which are unexplained, the FBI did not use its solicitation mailing list. The applicable regulations make clear that these lists are to be used by procuring agencies to promote competition. See Federal Acquisition Regulation §§ 14.203-1 and 14.205-4(a), Federal Acquisition Circular 84-5, April 1, 1985. Nevertheless, we note that in response to the CBD synopsis, 24 firms requested copies of the solicitation, of which four have submitted offers. There is no indication that reasonable

prices have not been offered. In view of the number of firms which requested and received copies of the solicitation as a result of the CBD notice and of the number of offers received, we think full and open competition was achieved. Since the FBI appears to have obtained competition for this procurement, we do not sustain Metro Medical's protest. We are recommending to the FBI, however, that in the future it take measures to insure that interested potential offerors are added to solicitation mailing lists and that those lists are used.

The protest is denied.

Harry R. Van Cleve
Harry R. Van Cleve
General Counsel